

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of September 9, 2014
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**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of September 9, 2014**

Board Members Present

Maroulla S. Gleaton, M.D., Board Chairman
David D. Jones, M.D., Board Secretary
David R. Andrews, M.D.
Cheryl Clukey, M.Ed.
David H. Dumont, M.D.
Dana D. Dyer
David Nyberg, Ph.D.
Christopher Ross, P.A.-C
Peter J. Sacchetti, M.D.
M. Louisa Barnhart, M.D.

Board Staff Present

Randal C. Manning, Executive Director
Timothy E. Terranova, Assistant Executive Director
Mark S. Cooper, M.D., Medical Director
Julie A. Best, Consumer Outreach Specialist
Kathryn Levesque, Investigator
Maureen S. Lathrop, Administrative Assistant

Attorney General's Office Staff Present

Dennis E. Smith, Assistant Attorney General
Detective James Gioia

Ms. Clukey was excused at 5:00 p.m.
Mr. Dyer was excused at 5:00 p.m.

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405, 405(4), 405(6)(E); 10 M.R.S. §8003-B; 22 M.R.S. §1711-C; and 24 M.R.S. §2510). The Board moved, seconded, and voted the following executive session times. During the public sessions of the meeting, actions were taken on all matters discussed during executive session.

EXECUTIVE SESSIONS

PURPOSE

8:00 a.m. - 8:45 a.m.	Discussion of personnel issues
9:30 a.m. - 10:35 a.m.	Informal Conference
10:50 a.m. - 12:35 p.m.	Complaints
1:04 p.m. - 2:00 p.m.	Complaints
2:09 p.m. - 3:24 p.m.	Informal Conference
3:30 p.m. - 3:49 p.m.	Complaints
4:55 p.m. - 5:45 p.m.	Discussion of personnel issues

I. Call to Order

Dr. Gleaton called the meeting to order at 9:15 a.m.

A. Amendments to Agenda

1. Informal Conference CR 13-33 9:30 a.m.
2. Paul M. Berman, M.D. under Applications for Individual Consideration
3. Amend CR14-74 and CR14-89 off the agenda

B. Scheduled Agenda Items

1. Informal Conference CR13-66 2:00 p.m.

II. Complaints

1. CR12-51

Ms. Clukey moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

2. CR14-95

Ms. Clukey moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

3. CR14-106

Ms. Clukey moved to investigate further. Dr. Andrews seconded the motion, which passed unanimously.

4. CR13-169

Mr. Dyer moved to investigate further. Dr. Jones seconded the motion, which passed 9-0-0-1 with Dr. Dumont recused.

5. CR13-177

Dr. Barnhart moved to investigate further. Mr. Dyer seconded the motion, which passed unanimously.

6. CR14-26 and CR14-48

Dr. Jones moved to: 1) re-open the complaints; 2) set aside the letter of guidance; 3) conduct additional investigation; and 4) offer the licensee the opportunity to submit a supplemental response. Dr. Dumont seconded the motion, which passed unanimously.

7. CR14-14

Dr. Andrews moved to investigate further. Mr. Dyer seconded the motion, which passed unanimously.

8. CR14-45

Dr. Jones moved to investigate further. Mr. Dyer seconded the motion, which passed unanimously.

9. CR14-84

Dr. Andrews moved to investigate further. Dr. Jones seconded the motion, which passed 9-0-0-1 with Dr. Sacchetti recused.

10. CR14-34

Dr. Dumont moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

MOTION: This is a complaint filed by the family of a patient who died of an intentional overdose of her prescription opioids. Review of the medical record showed a complex pain patient who was followed by multiple specialists. The physician retired a year prior to this patient's death after caring for her for many years. During the period that she cared for this patient the patient was on a relatively stable but large dose of opioids. Universal precautions in prescribing of controlled substances, which were just starting to be practiced, were not fully implemented. The rest of the medical care, however, appears appropriate with a controlled substance agreement and careful attention to the patient's medical needs.

11. CR14-76

Mr. Dyer moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 7-0-0-3 with Dr. Gleaton, Dr. Barnhart, and Dr. Dumont recused.

MOTION: The complainant alleges he was unfairly denied admittance to the physician's practice. The physician responded that the complainant was not forthright on his intake forms, and that he later claimed to have a medical condition that the physician does not feel qualified to treat.

12. CR14-53

Dr. Sacchetti moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complains about the treatment she received from her psychiatrist. The physician saw the patient four times and had a number of phone contacts over a two-month period to treat the patient's mood and anxiety disorders. The physician adjusted medications and called a Crisis Intervention Team to evaluate the patient whom she felt needed assessment emergently. The psychiatrist apologized for the emotional trauma and embarrassment the event engendered for the patient, but review of the record supports the physician's actions.

13. CR14-56

Dr. Andrews moved to investigate further. Dr. Nyberg seconded the motion, which passed 8-0-0-2 with Dr. Gleaton and Dr. Barnhart recused.

14. CR14-59

Dr. Sacchetti moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed unanimously.

MOTION: The patient complains about her evaluation and treatment by an emergency room physician. The patient was emergently transported to the hospital after being involved in a motor vehicle accident. Review of the medical record indicates reasonable care with discharge instructions.

15. CR14-74

The complaint was amended off the agenda.

16. CR 14-89

The complaint was amended off the agenda.

17. CR14-72

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The complainant alleges that a misplaced feeding tube led to the death of her mother. The patient was examined and assessed by the physician assistant and her supervisor, both confirming placement after two inconclusive x-rays. Unfortunately the tube was subsequently found to be no longer in the correct position. A new policy concerning tube feeding has been implemented at the facility since this incident. The care provided by the physician assistant was appropriate.

18. CR14-73

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

MOTION: The patient complains the physician prescribed a medication that worsened his breathing and caused an allergic reaction. He states the physician did not respond to his complaints and never recommended stopping the medication. The physician responded that the patient never complained of anything other than a minor skin rash and testing revealed no decrease in lung function.

19. CR14-100

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The complainant alleges that the physician did not provide professional care. The physician responded that he tried to comfort the patient and assuage her

disappointment that a particular procedure would not resolve her issue. Due to the interaction with this patient, the office has reviewed its policies and hopes to improve future interactions. Review of the chart supports the physician's actions.

20. CR14-102

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

MOTION: This complaint was filed against the physician and his office staff. The patient had multiple urologic issues, but was primarily concerned about the care he received post-operatively. Review of the medical record shows appropriate care, documentation, and follow-up with reasonable response to telephone calls and expressed concerns. The patient did develop a post-operative recurrence of his primary problem but unfortunately this is a recognized complication of this type of surgery. The nature of the actual interactions between the patient and the physician and his staff cannot be judged from the medical record.

21. CR14-103

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

MOTION: The patient complains about the treatment and the manner in which it was administered by his urologist. Review of the medical record indicates reasonable evaluation and treatment of his urologic issues.

22. CR13-199

Mr. Ross moved to investigate further. Mr. Dyer seconded the motion, which passed 8-2-0-0.

23. CR14-20

Dr. Andrews moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient alleges the surgeon misled her in his consultation and educational process for surgical treatment of her venous condition. The physician responded that the appropriate surgical procedure was performed, but that a previously undetected anatomic anomaly resulted in the need for a second surgical procedure. At this point the physician was relocating his practice and the patient had to be referred to another surgeon whose ultrasound exam concurred with the first surgeon's assessment. A second procedure by the new surgeon resulted in a satisfactory outcome. Medical records revealed appropriate care and detailed documentation of informed consent. The physician's subsequent responses to questions by the Board addressed all concerns.

24. CR14-58

Dr. Nyberg moved to investigate further. Mr. Dyer seconded the motion, which passed unanimously.

25. CR14-60

Dr. Andrews moved to dismiss the complaint. Dr. Jones seconded the motion, which passed 9-0-0-1 with Mr. Ross recused.

MOTION: The patient complains that the physician provided inadequate medical care and refused to increase his medications for treatment of his chronic pain. The patient left the physician's practice. The physician responded that alternative treatments were presented and referrals were made. The patient elected not to follow through on some of these modalities and evaluations. Review of the medical record revealed attentive care, detailed record keeping, and exemplary attention to the elements of universal precautions in opioid prescribing. Medical decision making was well documented. The patient also alleged that the complete medical record was not submitted to the Board for review, but further investigation showed this allegation to be without merit.

26. CR14-62

Dr. Barnhart moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The patient's mother complains that her son's addiction is enabled by his physician. The physician explained current and future precautions. The medical record was reviewed and found to be appropriate.

27. CR14-67

Mr. Dyer moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed 9-0-0-1 with Dr. Dumont recused.

MOTION: The patient complains that she had previously been diagnosed with a myocardial infarction. On a subsequent encounter, she was told this was not so and that she was healthy enough to continue her cardiac rehabilitation. Significant miscommunication occurred between the patient and the physician. The patient's standard of care was not compromised.

28. CR14-69

Dr. Barnhart moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complains that the physician kicked her out of his office after 15 minutes and that he would not provide care. The physician explained that this was an initial visit and he immediately realized that he and the patient could not establish a

therapeutic relationship, so he ended the visit. It is not possible for the Board to know exactly what transpired during the interaction.

29. CR14-70

Ms. Clukey moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed unanimously.

The patient complains about her care at a suboxone clinic. She complains that she was discharged from the clinic and is concerned about withdrawal. The physician responded by explaining the patient was moving and was provided with a 60-day prescription. The patient did not provide authorization for the Board to obtain a copy of her medical record, so the file is incomplete.

30. CR14-78

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient alleges that the physician assistant did not provide professional care and that her urine sample was not handled correctly. The physician assistant responded that she was following universal precautions and had taken over for a prior provider who had left the practice. Since this incident, the office policy regarding urine collection has been updated. Review of the medical record supports the physician assistant's actions.

31. CR14-80

Dr. Jones moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed unanimously.

MOTION: The complainant alleges that the physician placed her pacemaker pocket too high on her chest and did not properly place the leads for the pacemaker. The pacemaker worked normally for the first 4 weeks and then began to malfunction due to lead migration. The physician referred her to a second cardiologist for revision of the leads. It is unfortunate that the patient's leads failed, but it is a recognized complication of pacemaker placement. The pocket revision was the choice of the second cardiologist.

32. CR14-82

Dr. Sacchetti moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The patient voices numerous complaints about his primary care physician sparked by a negative drug screen for controlled substances. The physician, legitimately concerned about the negative result, expressed a willingness to carry on treatment so long as the patient agreed to lower dosing and closer monitoring. This suggestion was poorly received by the patient.

33. CR14-83

Dr. Jones moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

34. CR14-87 John C. O'Connell, M.D.

Dr. Dumont moved to order an Adjudicatory Hearing. Dr. Nyberg seconded the motion, which passed unanimously.

35. CR14-90

Dr. Andrews moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

36. CR14-96

Dr. Sacchetti moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed unanimously.

MOTION: The patient complains that the consulting physician acted insensitively when he spoke to her and ordered an imaging study that could have placed her in harm's way. There is no supporting evidence that the physician mistreated the patient. Though the imaging study in question may not have been contraindicated for this particular patient, the physician reconsidered and selected an alternative test.

37. CR14-98

Dr. Barnhart moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 9-0-0-1 with Dr. Jones recused.

MOTION: The patient complains that the physician did not diagnose her properly and was overly concerned about her weight. The physician responded with a thoughtful and attentive description of the care provided including appropriate concern that the patient did not gain excessive weight as a side effect of the medications. The patient did not authorize the Board to obtain a copy of her medical record, so the file is incomplete.

38. CR14-111

Mr. Dyer moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

39. CR14-112

Dr. Barnhart moved to investigate further. Mr. Dyer seconded the motion, which passed unanimously.

40. CR14-115

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: This complaint is filed by a physician against another physician alleging unprofessional behavior in not providing him with a more positive reference. There is no evidence the reference was not provided honestly despite its differing from a previous reference in response to different questions.

41. CR14-119

Mr. Dyer moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

MOTION: The patient alleges that the physician was rude and refused to provide treatment. The physician responded that he had several concerns and that there were contraindications to treatment. He stated that he discussed these issues with the patient, but denied doing so in a rude or unprofessional manner. The medical record demonstrates appropriate care.

42. CR14-125

Dr. Barnhart moved to investigate further. Dr. Nyberg seconded the motion, which passed unanimously.

III. Assessment & Direction

43. AD14-4

Dr. Jones moved to file the issue. Dr. Dumont seconded the motion, which passed 8-0-1-1 with Dr. Barnhart abstaining and Dr. Andrews recused.

44. AD14-109

Dr. Sacchetti moved to issue a complaint (CR14-147). Dr. Jones seconded the motion, which passed 9-0-1-0 with Dr. Barnhart abstaining.

45. AD14-114

Mr. Dyer moved to issue a complaint (CR14-148). Dr. Jones seconded the motion, which passed 8-0-1-1 with Dr. Barnhart abstaining and Dr. Dumont recused.

46. AD14-121

Dr. Dumont moved to issue a complaint (CR14-151). Dr. Nyberg seconded the motion, which passed 9-0-1-0 with Dr. Barnhart abstaining.

47. AD14-123

Ms. Clukey moved to issue a complaint (CR14-149). Dr. Jones seconded the motion, which passed 9-0-1-0 with Dr. Barnhart abstaining.

48. AD14-134

Ms. Clukey moved to issue a complaint (CR14-150). Dr. Dumont seconded the motion, which passed 8-0-1-1 with Dr. Barnhart abstaining and Dr. Jones recused.

49. Intentionally Left Blank

50. Pending Adjudicatory Hearing and Informal Conference Report

The Board reviewed the report.

51. Consumer Assistant Feedback

The Board reviewed the information.

52. Physician Feedback (none)

IV. Informal Conferences

53. CR13-66

Dr. Jones moved to investigate further. Mr. Dyer seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

54. CR13-33

Dr. Jones moved to investigate further. Dr. Nyberg seconded the motion, which passed 9-0-0-1 with Dr. Sacchetti recused.

V. Minutes of July 8, 2014

Dr. Jones moved to approve the minutes of the July 2014 meeting as amended. Dr. Sacchetti seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders

1. CR 13-173 Alexandria E. Nesbit, P.A.-C (Appendix A)

Dr. Jones moved to approve the Board Order with one amendment. Dr. Andrews seconded the motion, which passed 8-0-2-0 with Dr. Dumont and Ms. Clukey abstaining.

B. Consent Agreement Monitoring and Approval

1. Venkatram Nethala, M.D.

Dr. Dumont moved to approve Dr. Nethala's request to terminate his Consent Agreement. Dr. Barnhart seconded the motion, which passed unanimously.

2. Nelson Meaker, P.A.-C

The Board reviewed documentation that Mr. Meaker completed continuing medical education courses in compliance with his Consent Agreement.

3. C. Thomas Folkemer, M.D.

Dr. Barnhart moved to deny Dr. Folkemer's request to terminate his license probation. Ms. Clukey seconded the motion, which passed unanimously.

4. Robert Baroody, M.D.

The Board reviewed documentation that Dr. Baroody successfully complied with the terms of his Consent Agreement, which expired effective September 8, 2014.

5. William R. Fannin, Jr., M.D.

Staff notified the Board that Dr. Fannin, who entered into a Consent Agreement with the Board on June 11, 2013, passed away on August 11, 2014.

6. William Ortiz, M.D. (Appendix B)

Dr. Andrews moved to approve the signed Consent Agreement. Dr. Jones seconded the motion, which passed unanimously.

7. John P. Cederna, M.D.

Dr. Jones moved to approve Dr. Cederna's request to terminate his Consent Agreement. Dr. Dumont seconded the motion, which passed 9-0-0-1 with Dr. Andrews recused.

8. Charles M. Stewart, M.D.

Dr. Jones moved to approve Dr. Stewart's request to amend his Consent Agreement. Dr. Andrews seconded the motion which passed, 8-1-0-1 with Dr. Barnhart recused.

VII. Adjudicatory Hearing (none)

VIII. Remarks of Chairman

A. 2013–2014 FSMB Participation Report

The Board reviewed the report.

B. FSMB Nominations

The Board reviewed a request from the Federation of State Medical Boards (FSMB) for nominations of any board members who wish to serve on FSMB committees.

C. November Board meeting date

Staff reminded Board members that the November 2014 meeting will be held on Monday, November 10th due to the holiday on Tuesday, November 11th.

D. Report on Opioid-related overdose conference

The report was tabled.

IX. Executive Director's Monthly Report

The Board reviewed and accepted the report of the Executive Director.

A. Complaint Status Report

As of September 1, 2014, there are ninety-four (94) complaints outstanding. One hundred fourteen (114) have been received year-to-date and ninety-six (96) have been closed so far this year.

B. Adjudicatory Hearings

Staff made a presentation regarding the Adjudicatory Hearing process.

X. Medical Director's Report (none)

XI. Remarks of Assistant Attorney General (none)

XII. Secretary's Report

A. Licenses for Ratification

1. M.D. Licenses for Ratification

Mr. Dyer moved to ratify the Board Secretary's approval of the following physician license applications. Ms. Clukey seconded the motion, which passed unanimously. The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Aguilar, Maria	Psychiatry & Neurology	Telemedicine
Ahmad, Iftikhar	Radiology	Not Listed
Al-Rashid, Mamun	Orthopedic Surgery	Not Listed
Ambruzs, Josephine M.	Pathology	Not Listed
Aryal, Suima	Family Medicine	Bangor
Baliog Jr., Crisostomo	Internal Medicine	Bangor
Beal, Angus L.H.	Emergency Medicine	Bangor
Bedway Jr., Joseph	General Surgery	Lewiston
Brewster, Steven J.	Family Medicine	Portland
Caggiano, John D.	Orthopedic Surgery	Skowhegan
Capampangan, Dan	Psychiatry & Neurology	Telemedicine
Carin, Dorothy A.	Family Medicine	Brooks
Chelli, Hephzibah E.	Family Medicine	Skowhegan
Cheung, Nora H.	Surgery	Portland
Chopra, Angeli	Internal Medicine	Bangor
Comerford, Lawrence W.	Gastroenterology	Bangor
Dangleben, Dale A.	Surgery	Lewiston
Dansereau, Jean-Joseph	Psychiatry	Augusta
Diamond, Michael J.	Family Medicine	Augusta
Dorcy, Brian	Internal Medicine	Farmington
Duff, Michael P.	Internal Medicine	Lewiston
Fennessy, Brendan G.	Otolaryngology	Not Listed
Ferrara, Jarrod J.	Internal Medicine	Augusta
Fowler, Brent T.	Emergency Medicine	Portland
Fox, Clinton J.	Emergency Medicine	Portland
Glasspool, Nora G.	Family Medicine	Waterville
Goldberg, Jennifer H.	Internal Medicine	Rockport
Grala, Margaret E.	Pediatrics	Portland
Grandin, Andrew J.	Anesthesiology	Portland
Hajjar, Rasmi	Internal Medicine	Bangor
Hebert, Daniel J.	Orthopedic Surgery	Belfast
Helmer, Elizabeth J.	Surgery	York
Henry, Christopher A.	Urology	Lewiston
Jalandhara, Priyanka B.	Internal Medicine	Not Listed
Joshi, Aditi U.	Emergency Medicine	Not Listed
Kanhoush, Rima	Pathology	Bangor
Kaphan, Russell	Internal Medicine	Rockport
Kaura, Abhimanyu	Internal Medicine	Fort Kent
Kenosi, Thabo	Internal Medicine	Scarborough
Kinsler, Erron L.	Ob/Gyn	York
Kirkpatrick, John C.	Diagnostic Radiology	Not Listed
Kommana, Harisha	Radiology	Teleradiology
Lambe, Jennifer	Pathology	Not Listed
Lanoix, Richard	Emergency Medicine	Lewiston
Le Comte, Karen A.	Psychiatry & Neurology	Lewiston
Lee-Iannotti, Joyce K.	Psychiatry & Neurology	Telemedicine
Leupp, Timothy C.	Internal Medicine	Bangor

Mann, Barbara	Internal Medicine	Lewiston
Marshall, Jennifer L.	Anesthesiology	Not Listed
McDermott, Jessica	Anesthesiology	South Portland
McDonald Jr., Lawrence S.	Internal Medicine	Skowhegan
McLaughlin, Peter F.	Emergency Medicine	Greenville
Meeks, Lloyd C.	Anesthesiology	Lewiston
Moore, Sarah E.	Internal Medicine	Waterville
Morrison, Serena A.	Ophthalmology	Belfast
Mulligan Wilson, Sarah R.	Pediatrics	Norway
Nickolisen, Robert S.	Urology	Not Listed
Okere, Isidore	Internal Medicine	Bangor
Onimoe, Grace I.	Pediatrics	Not Listed
Pachova, Daniel A.	OB/GYN	Bangor
Peck, Jessica	Emergency Medicine	Biddeford
Pelletier, Andrea L.	Ob/Gyn	Portland
Perlmutter, Mark N.	Orthopedic Surgery	Caribou
Pollard, Jason C.	Anesthesiology	South Portland
Pratt, Alan G.	Neuroradiology	Not Listed
Puckhaber, Deborah J.	Internal Medicine	Lewiston
Regis, Anthony C.	Emergency Medicine	Lewiston
Regmi, Suman R.	Family Medicine	Bangor
Ritter, Seth C.	Emergency Medicine	Lewiston
Rose, Gregory H.	Diagnostic Radiology	Teleradiology
Russell, John C.	Urology	Houlton
Schulte, Leslie A.	Family Medicine	Portland
Scott, Cameron S.	Emergency Medicine	Lewiston
Scott Jr., Ira L.	Psychiatry	Bangor
Shifrin, Roger Y.	Diagnostic Radiology	Telemedicine
Shrestha, Puja	Internal Medicine	Presque Isle
Shrivastava, Kaustubh K.	Internal Medicine	Bar Harbor
Sidford, Christopher F.	Emergency Medicine	Telemedicine
Somrov, Serge	Radiology	Telemedicine
Stohl, Sheldon	Anesthesiology	Skowhegan
Vadlapatla, Shyam	Internal Medicine	Millinocket
Vanderlinde, Jan	Emergency Medicine	Moonlighting
Wilson, James	Physical Medicine & Rehabilitation	Augusta
Win, Than	Internal Medicine	Waterville
Young, Benjamin T.	Internal Medicine	Not Listed

2. P.A. Licenses for Ratification

Ms. Clukey moved to ratify the Board Secretary's approval of the following physician assistant license applications. Mr. Ross seconded the motion, which passed 7-0-0-2 with Dr. Dumont and Dr. Sacchetti recused.

The following physician assistant license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Boukia, Revaz N.	Inactive	None	None
Boyce, Pauline	Active	Mette, Stephen	Portland
Charwat, Chase	Active	Rodrigue, Stephen	Falmouth
Ely, Patrick	Active	Faller, Alicia	Lewiston
Lecureux, Amy	Active	Savatteri, Miriam	Biddeford
Palmer, Nilaya	Active	Bamberger, Stephan	Auburn
Robertson, Heather	Active	Huntress, Laurie	Turner
Slauenwhite, Shelby	Inactive	None	None
Spach, David	Active	Binette, Michael	Portland
Thompson, Jamie	Inactive	None	None

B. Applications for Individual Consideration

1. Christopher C. Hall, M.D.

The Licensure Committee moved to approve a temporary license for a six-month period contingent upon the physician having a Board approved monitor. The motion passed 9-0-0-1 with Dr. Andrews recused.

2. Bruce M. Gioia, M.D.

The Licensure Committee moved to approve the license application. The motion passed unanimously.

3. Paul M. Berman, M.D.

The Licensure Committee moved to preliminarily deny the license application without leave to withdraw. The motion passed unanimously.

C. Applications for Reinstatement

1. Applications for Reinstatement for Ratification

Mr. Dyer moved to ratify the Board Secretary's approval of the following physician license reinstatement applications. Mr. Ross seconded the motion, which passed unanimously.

The following license reinstatement applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Kindrat, Taras	Ob/Gyn	Not Listed
Prescott, Stacy L.	Emergency Medicine	Calais
Takeuchi, Sean Y.	Diagnostic Radiology	Not Listed

2. Applications for Reinstatement for Individual Consideration (none)

D. Withdrawals**1. Withdraw License Application (none)****2. Withdraw License from Registration**

Dr. Dumont moved to approve the licensees' requests to withdraw from registration.
Dr. Sacchetti seconded the motion, which passed unanimously.

The following licensees have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Bahce-Altuntas, Asena	MD19857
Christie Jr., Donald M.	MD14952
Cohn, Kenneth	MD18343
Dickenson, Edward T.	MD18878
Diener, Jakow G.	MD18795
Fremont-Smith, Maurice	MD18248
Heeb, Camille S.	MD15694
Jackson, Rebecca	MD12825
Jain, Pradumna S.	MD13758
Joseph, Michael	MD17611
Pates, Jason	MD18078
Robbins, Gary L.	MD18366
Rowden, David R.	MD8992
Snow, Gail Ann	MD10672
Szucs, Murrill	MD6006
Theoharis, Jennifer	MD16392
Verma, Varun K.	MD19492

3. Withdraw License from Registration - Individual Consideration (none)**E. Licenses to Lapse by Operation of Law**

The following licenses lapsed by operation of law effective August 11, 2014.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Adesanya, Ismail	MD19327
Bayrak, Beril	MD15715
Brodie, Mark	MD18837
Doggwiler, Kurt	MD15820
Duncan, Casey	MD19017
Edgar Jr., Joseph	MD6134
Glasser, James	MD19528
Grimes, Lora	MD17947
Haque, Rizwan Ul	MD10790
Howard II, Jerry L.	MD19094
Li, Xiaoqing	MD19161

Mathews, Susan	MD13079
Mekala, Vani	MD16084
Mitchell, Rosalind	MD19133
Modarressi, Amir	MD16323
Nissenbaum, Michael	MD14984
Saber, Cameron	MD18499
Schipitsch, Douglas	MD11130
Seder, Norman	MD10051
Sloan, Allen	MD9880
Venkatesh, Ramakrishna	MD16321
Watanabe, Tatsuo	MD6441
Yeh, Samuel D. J.	MD5645

F. Licensees Requesting to Convert to Active Status (none)

G. Renewal Applications for Review

1. Thomas Prose, M.D.

The Licensure Committee moved to approve the license renewal application. The motion passed unanimously.

2. William Silber, M.D.

The Licensure Committee moved to table review of the license renewal application. The motion passed 9-0-0-1 with Dr. Jones recused.

3. Benjamin Newman, M.D.

The Licensure Committee moved to deny the licensee's request for a waiver of the Board's policy to pend license renewal applications. The motion passed unanimously.

H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority

Mr. Ross moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Dr. Sacchetti seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Cadwell, James	Walsh, Stephen	Bangor
Cole, Brian	Cushing, Brad	Portland
Costanza, Claire	Toder, Michelle	Bangor
Garner, Christopher	Burke, David	Bangor

Greven, Sarah	Harmatz, Alan	Lewiston
Hayes, Nathan	Dionne, Andrew	Waterville
LeClerc, Angela	Barth, Konrad	Scarborough
Martin, Cameron	Burke, David	Bangor
Nicoletti, Jeff	Dollard, Peter	Biddeford
Pierce, Carl	McKee, Cameron	Augusta
Reynolds, Diane	Chelberg, Rodney	Bangor
Simpson, William	Khoury, Lisa	Brunswick
Zimmerman, Ryan	Kelly, Stephen	Portland

2. Applications for New Schedule II Authority

Ms. Clukey moved to ratify the Board Secretary's approval of the following requests for Schedule II prescribing authority. Dr. Barnhart seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Barnum, Bernadette	Pier, John	Scarborough
Boese, Sheila	Harmatz, Alan	Lewiston
Bourget, Lindsey	Flynn, Carl	Caribou
Brezinski, Sharon	Farooq, Shiraz	Lewiston
Brown, Rebecca	Rolfe, Mark	Gardiner
Burlock, Lindsay	Perlmutter, Mark	Caribou
Clark, John D.	Scordino, Joseph III.	Rockport
Crowder, Jeffrey	Kern, David	Augusta
Johnson, Carol	Polkinghorn, George	Augusta
Maurer, Kate	Reddy, Challa	Dexter
Melchionda, Lara	Thurlow, Jeffrey	York
Methvin, Sarah	Reilly, James	Lewiston
Teague, Elizabeth	Polkinghorn, George	Augusta
Trafton, Susan	Polkinghorn, George	Augusta

XIII. Standing Committee Reports

A. Administration Policy and Rules Committee

1. Board Order policy

Review of the policy was tabled.

2. Telemedicine policy

The Board reviewed the current telemedicine policy and discussed concerns raised by several psychiatric providers in the state that the policy's prohibition of controlled substance prescribing would adversely impact the way psychiatric care is delivered to

some patients in the state. Telemedicine is widely used by the psychiatric community for continuing and/or follow-up care for patients in rural areas of the state without access to local psychiatric care. The Board also considered input from the Maine Medical Association regarding these changes.

Dr. Dumont moved to 1) remove the prohibition of controlled substance prescribing from the telemedicine policy; and 2) change the telemedicine policy to telemedicine guidelines. Dr. Jones seconded the motion, which passed unanimously.

3. Notification to 24 M.R.S. §2505 reporters policy

Review of the policy was tabled.

4. License lapse due to non-renewal with open complaint policy

Review of the policy was tabled.

5. Pending license renewal application policy

Review of the policy was tabled.

B. Physician Assistant Advisory Committee

1. Hydrocodone Schedule II report

The report was tabled.

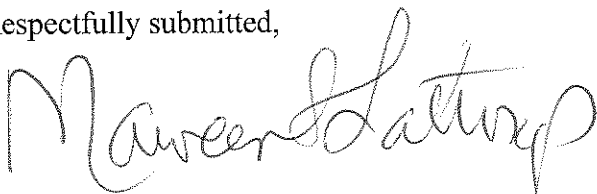
XIV. Board Correspondence

The Board reviewed correspondence from a physician regarding assessment of an administrative fine as well as the Executive Director's response to the physician.

XV. Other Business (none)

XVI. Adjournment 5:45 p.m.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant

APPENDIX A

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Alexandria E. Nesbit, P.A.-C.

Suspension of licensure as physician assistant

DECISION AND ORDER

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. §§ 3269 and 3282-A and 10 M.R.S. § 8003(5), the State of Maine Board of Licensure in Medicine (“Board”) met in public session at its offices in Augusta, Maine, on July 8, 2014. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed to suspend the license of licensee Alexandria E. Nesbit, P.A.-C.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were David Andrews, M.D.; Louisa Barnhart, M.D; Dana Dyer, Public Member; David Jones, M.D.; David Nyberg, Ph.D.; Christopher Ross, P.A.-C; Peter Sacchetti, M.D.; and Chair Maroulla Gleaton, M.D. Ms. Nesbit was present and represented herself. Dennis Smith, Esq., Assistant Attorney General, represented the State of Maine. Rebekah Smith, Esq., served as Hearing Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. § 9051 et seq.

Joint Exhibits #1 to #25 were admitted without objection. The Board took notice of its statutes and rules and confirmed that no participating member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. The State presented an opening statement; the Licensee waived her right to present an opening statement. Amy Tardy, Ph.D., case manager at the Medical Professionals Health Program of the Maine

Medical Association, and the Licensee testified. Each party made a closing statement. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the allegations against Ms. Nesbit.

II. FINDINGS OF FACTS

1. The Licensee has held a license to practice as a physician assistant since September 9, 2005. (Joint Exhibit #18.)
2. In 2009, the Licensee sought the help of the Medical Professionals Health Program ("MPHP") and entered into a five-year agreement to avoid alcohol. (Joint Exhibit #6.)
3. On July 12, 2011, the Licensee entered into a Consent Agreement with the Board regarding Complaint 10-524, alleging that the Licensee had relapsed to the use of alcohol and had been arrested and convicted of Operating Under the Influence. (Joint Exhibit #21.) The Consent Agreement required that the Licensee refrain from the use of any and all prohibited substances, including alcohol, except those dispensed by a single primary care physician, undergo substance monitoring, undertake substance abuse and mental health treatment, be monitored by a Board-approved physician, and attend self-help group meetings. (Joint Exhibit #21.) The Consent Agreement also stated that any reliable evidence of her use of any prohibited substances would result in the immediate, indefinite, automatic suspension of the Licensee's license. (Joint Exhibit #21.)
4. The Consent Agreement was modified on October 28, 2011, to approve a physician assistant to be the Licensee's primary care provider rather than a physician. (Joint Exhibit #20.) The Consent Agreement was again modified on October 23, 2012, to reduce the frequency of substance monitoring. (Joint Exhibit #19.)

5. Following several abnormal urine screens due to low creatinine levels and the Licensee's acknowledged consumption of alcohol and positive blood test, the Licensee entered into a new five-year monitoring contract with MPHP on September 5, 2013. (Joint Exhibit #17; Joint Exhibit #18.) In the contract, the Licensee agreed, among other conditions, to: abstain from any and all potentially addictive or psycho-active chemicals whether over the counter, scheduled, or unscheduled (including but not limited to alcohol); abstain from using alcohol in any form including over the counter drugs and sanitizing gels; meet with her MPHP case manager annually; submit monthly self-assessment reports to MPHP before the 10th day of each month; attend 12 step meetings and submit monthly meeting attendance logs to MPHP; and submit to urine toxicology screens four times a month for the first year, three times a month for the second year, and two times a month for the third year. (Joint Exhibit #17.) The Licensee cannot understand or explain why her creatinine level is often low in her urine toxicology screens. (Testimony of Licensee.)
6. Following a hearing on October 8, 2013, the Board issued a Decision and Order on November 25, 2013, in which the Board concluded that the Licensee had violated the conditions of probation required by the Consent Agreement by consuming alcohol and imposed several sanctions. (Joint Exhibit #18.) The Decision and Order imposed conditions of probation upon the Licensee, including a prohibition on the consumption of alcohol and compliance with the terms of the five-year Monitoring Contract she had entered into with MPHP on September 5, 2013. (Joint Exhibit #18.) The Decision and Order also required the Licensee to undergo additional substance abuse testing within 24 hours of any abnormal test results with such testing to be overseen by MPHP. (Joint Exhibit #18.) In addition, the Decision and Order also required the Licensee to maintain her obligations

regarding substance monitoring while she was away from home but within the continental United States. (Joint Exhibit #18.)

7. The Licensee receives treatment for an anxiety disorder. (Stipulation of Parties; Joint Exhibit #16.)
8. On December 12, 2013, the Licensee underwent a urine toxicology screen that was abnormal due to a low creatinine level. (Joint Exhibit #16.) No follow up test was ordered by MPHP or otherwise obtained within 24 hours. (Testimony of Tardy.)
9. On January 9, 2014, the Licensee underwent a urine toxicology screen that was abnormal due to a low level of creatinine. (Joint Exhibit #16.) No follow up test was ordered by MPHP or otherwise obtained within 24 hours. (Testimony of Tardy.)
10. On January 22, 2014, the Licensee underwent a urine toxicology screen that was abnormal due to a low level of creatinine. (Joint Exhibit #16.) No follow up test was ordered by MPHP or otherwise obtained within 24 hours. (Testimony of Tardy.)
11. At the end of February or early March 2014, case management of the Licensee's MPHP monitoring contract was transferred to Amy Tardy, Ph.D. (Testimony of Tardy.)
12. On April 23, 2014, a urine toxicology screen of the Licensee was found to be positive for alcohol. (Joint Exhibit #16.) The Licensee believed that the positive test result was due to her use of a dropper full of tincture of Echinacea the night before the test. (Joint Exhibit #6.) On April 27, 2014, the test result report was changed from positive to non-negative incidental exposure following a review by the MPHP Medical Review Officer. (Joint Exhibit #16.) A follow up urine toxicology screen which the Licensee underwent on April 28, 2014, was abnormal due to low creatinine. (Joint Exhibit #16; Testimony of Tardy.) On May 2, 2014, Ms. Tardy reported the non-negative incidental exposure to the Board by

letter. (Joint Exhibit #15.) The Licensee underwent a follow up PeTh blood test on April 29, 2014, which was negative. (Joint Exhibit #15; Joint Exhibit #16.) Ms. Tardy reported that although the incident was determined to be a non-negative incidental exposure, they had taken significant measures to address the situation, including the Licensee agreeing to a change in therapeutic service providers and the appointment of a mentor under the auspices of MPHP. (Joint Exhibit #15.)

13. On May 6, 2014, a urine toxicology screen of the Licensee was found to be positive for EtG and EtS. (Joint Exhibit #16.) Although the Licensee denied drinking alcohol, Ms. Tardy reported to the Board on May 14, 2014, that the MPHP Medical Review Officer did not feel the test result could have been caused by incidental exposure. (Joint Exhibit #14.) Ms. Tardy reported to the Board that she had recommended to the Licensee that she not practice until she completed several steps, including a PeTh test, an evaluation with Dr. Michael Curless, a medical consultation to determine if there were a medical cause for the test result, and an appointment with her therapist. (Joint Exhibit #14.) On May 19, 2014, Ms. Tardy reported to the Board that the follow up PeTh blood test was negative, but noted that blood testing would detect only what was referred to as "binges." (Joint Exhibit #13.) Ms. Tardy informed the Board that the Licensee had obtained an evaluation from Dr. Curless, who concluded that the Licensee's substance abuse disorder was in sustained remission, as well as a medical examination, which did not result in any medical concerns or causes for the positive result. (Joint Exhibit #12; Joint Exhibit #16.) Dr. Curless recommended that Ms. Nesbit stay enrolled in substance abuse treatment to better manage her stress and expected that over time her need for treatment would decrease. (Joint Exhibit #12.)

14. On May 20, 2014, the Board issued a letter to the Licensee indicating that pursuant to the Board's Decision and Order of November 25, 2013, the positive test result was grounds for the immediate suspension of her Maine physician assistant license. (Joint Exhibit #7.) The letter indicated that the Licensee's license was suspended immediately. (Joint Exhibit #7.) The letter informed the Licensee that the Board would be reviewing the information at its next meeting on June 10, 2014. (Joint Exhibit #7.)
15. On May 25, 2014, the Licensee emailed Ms. Tardy that she was experiencing a family emergency and would be driving her parents across the country from May 29 through June 10. (Joint Exhibit #11.) The Licensee indicated that she would try to stay in contact by email and would continue to call in for daily screens if required but noted that she had no longer had a license. (Joint Exhibit #11.)
16. At 5:50 a.m. on May 29, 2014, the Licensee emailed Ms. Tardy that she was required to test for a urine screen that day but was getting ready to drive her parents across the country and could not wait for the two local clinics to open. (Joint Exhibit #10.) She reported that she was on a tightly scheduled trip, the end result of which was her flight home on June 10. (Joint Exhibit #10.) The Licensee stated that she hoped that the Board would see the impossibility of screening across the country. (Joint Exhibit #10.) She noted that she would continue to call the urine screen testing number each morning, however. (Joint Exhibit #10.) Although Ms. Tardy offered to assist the Licensee to locate testing sites during her drive, the Licensee did not pursue such assistance. (Testimony of Tardy.)
17. Also on May 29, 2014, Ms. Tardy reported to the Board that the Licensee had temporarily suspended drug testing with MPHP, a decision she made after being fully informed that it would be inconsistent with what was required of her by the Board. (Joint Exhibit #9.) Ms.

Tardy noted that she believed that the Licensee planned to resume testing when she returned home. (Joint Exhibit #9.)

18. On June 9, 2014, a Notice of Hearing was issued by the Board to the Licensee informing her that a hearing would be held on July 8, 2014, regarding the suspension of her Maine physician assistance license. (Joint Exhibit #1.)
19. On June 12, 2014, the Licensee wrote to the Board to indicate that she believed the May 6 non-negative incidental screen was due to her use of a dropper full of Echinacea tincture the night before the test. (Joint Exhibit #6.) The Licensee stated that she had a positive urine test result the following week, for which she had no explanation, which was immediately followed by a negative blood test. (Joint Exhibit #6.) She noted that she had begun to question the purpose of all the testing, observing that she had voluntarily sought the help of MPHP in 2009 and entered into a five year contract stating that she would avoid alcohol. (Joint Exhibit #6.) She noted that she made a huge mistake in October 2010 by drinking alcohol, after which she received a charge of operating under the influence. (Joint Exhibit #6.) She then voluntarily admitted herself to a rehabilitation facility in Florida, which concluded that she was not an alcoholic because she did not have signs of withdrawal but was depending on alcohol to deal with stress, making her alcohol dependent. (Joint Exhibit #6.) The Licensee stated her belief that she had paid her social dues for the operating under the influence conviction. (Joint Exhibit #6.) The Licensee stated that after the operating under the influence charge, at the insistence of MPHP, she was automatically enrolled in another five year contract and her license was placed on probationary status. (Joint Exhibit #6.) She noted that had experienced a slip in August 2013 wherein she had wine with friends on a weekend and following the Board Decision and Order in the fall of 2013, she

was required to start the five year contract once again, with more strict mandates this time. (Joint Exhibit #6.) She noted the requirements, and costs, of maintaining her obligations under the MPHP monitoring contract. (Joint Exhibit #6.) She opined that the purpose of all the requirements was to ensure that she did not come to work with alcohol in her system but that she had never practiced medicine impaired. (Joint Exhibit #6.)

20. In her letter, the Licensee noted that she had been in the MPHP program for over five years and continued to provide patient care without impairment and with professionalism. (Joint Exhibit #6.) She expressed that the stresses of living with the specific mandates of the MPHP contract and Board Order were taking a toll on her health, leaving her feeling more anxious and frustrated. (Joint Exhibit #6.) She proposed a different monitoring system whereby a random alcohol Breathalyzer could be administered by the physician with whom she worked or his medical assistant. (Joint Exhibit #6.) She proposed that any positive Breathalyzer test would require an immediate urine screen or PeTh blood test. (Joint Exhibit #6.)

21. By undated letter, Pamela Allen, P.A.-C., sister of the Licensee, wrote to the Board indicating that her sister was experiencing a living hell trying to meet the new and rigorous standards imposed by the Board in its most recent Order. (Joint Exhibit #5.) She requested that the Board consider the purpose of the original agreement and allow the Licensee to practice without the incredible stress that she was experiencing. (Joint Exhibit #5.)

22. By letter dated June 10, 2014, Oleg Reznik, M.D., of St. Joseph's Family Medicine at Jackson Laboratory, reported to the Board that he had known the Licensee since October 2013 and had been one of her practice monitors. (Joint Exhibit #3.) Dr. Reznik shared his observation that the MPHP program had been detrimental to the Licensee's health by

putting undue pressure and stress on her everyday life. (Joint Exhibit #3.) He noted her significant weight loss and increasing anxiety and insomnia. (Joint Exhibit #3.) Dr. Reznik also observed that he saw the Licensee on an almost daily basis but had never observed her to be intoxicated or in any way impaired. (Joint Exhibit #3.) He concluded that her participation in nearly five years of MPHP programming seemed above and beyond what could reasonably be expected of a professional. (Joint Exhibit #3.)

23. By letter dated June 17, 2014, Laurie LaViolette, LCSW, CCS, reported to the Board concern that the Licensee had lost a tremendous amount of weight and was struggling more due to anxiety due to the demands placed on her by the Board Order. (Joint Exhibit #4.) Ms. LaViolette noted that the early morning screens interfered with her arrival at work and the lightness of her samples required more extensive and expensive blood tests. (Joint Exhibit #5.) Ms. LaViolette opined that the mandates of the program were creating and compounding problems that were jeopardizing the Licensee's health and well-being. (Joint Exhibit #5.)

24. By letter dated June 21, 2014, the Licensee requested that the Board focus on MPHP program mandates at the hearing scheduled for July 8, 2014. (Joint Exhibit #2.)

25. On June 30, 2014, the Licensee submitted an application for renewal of her license as a physician assistant. (Joint Exhibit #25.)

26. At hearing on July 8, 2014, the Licensee testified that she felt that she had paid her societal and professional dues over five years and that the continued monitoring requirements were overly harsh. (Testimony of Licensee.) She reiterated that she understood the Board's obligation to protect the public but had never gone to work impaired. (Testimony of Licensee.) The Licensee expressed her belief that continuing the required monitoring

program was not in her best interests physically or mentally. (Testimony of Licensee.)

The Licensee felt that she should not be subject to monitoring for behavior outside of the workplace. (Testimony of Licensee.) She proposed that if monitoring were a continued requirement of probation, she be allowed to undergo breathalyzer testing exclusively while at work. (Testimony of Licensee.)

III. GOVERNING STATUTES AND RULES

1. The State of Maine Board of Licensure in Medicine may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in habitual substance abuse that has resulted or is reasonably likely to result in the licensee performing services in a manner that endangers the health and safety of patients. 32 M.R.S. §3282-A(2)(B).
2. The Board may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in unprofessional conduct. 32 M.R.S. § 3282-A(2)(F). A licensee is considered to have engaged in unprofessional conduct if she violates a standard of professional behavior that has been established in the practice for which she is licensed. 32 M.R.S. §3282-A(2)(F).
3. The Board may impose conditions of probation upon a licensee to run for such time period as the Board determines appropriate. 10 M.R.S. § 8003(5)(A-1)(4). Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. 10 M.R.S. § 8003(5)(A-1)(4).
4. For each violation of applicable laws, rules or conditions of licensure, the Board may issue a warning, censure, or reprimand. 10 M.R.S. § 8003(5)(A-1).

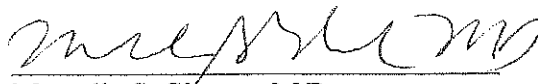
IV. CONCLUSIONS OF LAW

The Board, considering the above facts and those alluded to in the record but not referred to herein, determined that it had jurisdiction over Licensee Alexandria Nesbit and concluded as follows with regard to the allegations in the notice of hearing:

1. By unanimous vote, that Ms. Nesbit did not engage in the misuse of alcohol, drugs or other substances that resulted in or may have resulted in her performing services in a manner that endangered the health or safety of patients in violation of 32 M.R.S. § 3282-A(2)(B).
2. By vote of 7 to 1, that Ms. Nesbit engaged in unprofessional conduct by violating a standard of professional behavior that has been established in the practice for which the licensee is licensed in violation of 32 M.R.S. § 3282-A(2)(F).
3. By unanimous vote, that Ms. Nesbit failed to comply with a condition of probation imposed by the Decision and Order of the Board dated November 25, 2013, which constitutes grounds for discipline pursuant to 10 M.R.S. § 8003(5)(A-1)(4).
4. By unanimous vote, that Ms. Nesbit be reprimanded.
5. By unanimous vote, that Ms. Nesbit's application for renewal of her physician assistant license be denied and that a new application for licensure would not be considered for a minimum of six months.

The Board rendered its decision effective as of the date of hearing, July 8, 2014.

Dated: September 9, 2014



Maroulla S. Gleaton, M.D.

Chair, State of Maine Board of Licensure in Medicine

V. APPEAL RIGHTS

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
William Ortiz, MD)	AGREEMENT
Complaint No. CR13-67)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician in the State of Maine held by William Ortiz, M.D. The parties to the Consent Agreement are: William Ortiz, M.D. ("Dr. Ortiz"), the State of Maine Board of Licensure in Medicine ("the Board"), and the State of Maine Office of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. At all times relevant to the complaint, Dr. Ortiz was licensed as a physician in the State of Maine. The Board first issued a license to practice medicine on February 29, 2012. Dr. Ortiz specializes in Internal Medicine.

2. On or about April 9, 2013, the Board reviewed information received from the Maine Medical Marijuana Program (MMMP) alleging that: (a) Dr. Ortiz held a "medical seminar" in Orono, Maine at the University Inn for the purpose of issuing medical marijuana certificates from 0800 hours on March 20, 2013 to 0300 hours on March 21, 2013; and from 0800 hours on March 21, 2013 to 1700 hours on March 21, 2013 – at which time the owner/manager of the hotel asked Dr. Ortiz to cease these activities; (b) Dr. Ortiz saw many people between March 20-21, 2013, who came from all over the State in order to obtain a marijuana certificate from him; (c) Dr. Ortiz charged each person \$200 cash and provided medical marijuana certificates for a three (3) month period. After the three (3) month period, a follow-up visit costing \$175 cash would be required to obtain a medical marijuana certificate for

a one (1) year period. Following its review, the Board initiated a complaint against Dr. Ortiz's Maine medical license alleging unprofessional conduct. The Board subsequently docketed the complaint as Complaint 14-44, and sent it to Dr. Ortiz for a response.

3. On or about May 17, 2013, the Board received a written response from Dr. Ortiz to Complaint CR13-67. In his response, Dr. Ortiz indicated that, in his professional judgment, he did not believe that a single patient visit provided him with enough history with a patient to justify a one-year certification. Dr. Ortiz described his own personal experience with medical marijuana, and how it relieved his own chronic pain. In addition, Dr. Ortiz indicated that he consulted with the Maine Medical Association regarding medical marijuana practice, and understood the importance of establishing a bona fide doctor-patient relationship. Dr. Ortiz admitted that he saw existing and new patients on March 20-21, 2013 at the University Motor Inn in Orono, Maine. According to Dr. Ortiz, he rented a conference room at the University Motor Inn for that purpose, and was assisted by his family members, including his wife and daughter. According to Dr. Ortiz, Judy Bunn – an individual who owned a business¹ in Old Town, Maine where Dr. Ortiz had seen patients - “double-booked” patients on March 20-21, 2013 at the University Motor Inn. As a result, Dr. Ortiz saw 33 patients on March 20th (from 8:00 am to 3:00 am) and 11 patients on March 21st at the University Motor Inn. In addition, Dr. Ortiz indicated that he saw an additional 15 patients on March 21st at the Black Bear Inn. According to Dr. Ortiz, of the 59 patients that he saw on March 20-21, 40 of them were “new” patients and “almost all of them have already had follow-up visits” with him. In addition, Dr. Ortiz indicated that he reviews the prescription monitoring program (PMP) records for each new patient to ensure that they are not diverting or abusing prescription medications. According to

¹ Investigation revealed that the business was called “The Captains Joint.”

Dr. Ortiz, he “gave live lectures to four or five patients at a time, each of which lasted forty² minutes to an hour.” In addition, Dr. Ortiz stated that the “individual visit with each patient was between forty³ minutes to an hour, and was consistent from patient to patient.”

4. On or about May 24, 2013, the Board received a supplemental response from Dr. Ortiz in response to questions from the Board’s investigator regarding the alleged amount of time that Dr. Ortiz spent giving “live lectures” and in “individual patient visits.” According to Dr. Ortiz, he “meant to state that the live lectures last for approximately 20 minutes” and that he gave them at 9:00 am, 12:00 pm, and 3:00 pm on March 20th and 21st. In addition, Dr. Ortiz indicated that he may also have given a lecture at 6:00 pm on March 20th, but could not recall. As a further clarification, Dr. Ortiz stated that “only new patients are required to attend [his] live lectures” and that only saw 15 new patients on March 20th and 18 new patients on March 21st. In addition, Dr. Ortiz indicated that “[u]pon further reflection, it’s more likely that the patient examinations for new patients... lasted 30 to 40 minutes” and that his follow-up examinations for existing patients were “typically around 20 minutes in duration.”

5. On June 18, 2013, the Board issued a subpoena to Dr. Ortiz to produce the “complete medical records” including prescription monitoring program (PMP) printouts for the 59 patients that Dr. Ortiz saw on March 20-21, 2013 at the University Motor Inn or the Black Bear Inn in Orono, Maine.

6. On or about July 17, 2013, the Board received from Dr. Ortiz a copy of the records that he created for the 59 patients he saw on March 20-21, 2013 in Orono, Maine. A review of those records revealed that: (a) The records of 7 new patients seen on March 20th did

² Thus, at a minimum, on March 20th Dr. Ortiz would have had 6 lecture sessions for a total of 240 minutes. This equates to 4 hours.

³ Thus, at a minimum, Dr. Ortiz would have spent 1,320 minutes with the 33 patients he saw on March 20th. This equates to 22 hours.

not include any documentation demonstrating that an examination was performed on March 20th; (b) The records of 12 existing patients seen on March 20th did not include any documentation that an examination was performed on March 20th; (c) The records of 21 new patients seen on March 21st did not include any documentation demonstrating that an examination was performed on March 21st; (d) The records of 4 existing patients seen on March 21st did not include any documentation that an examination was performed on March 21st. In addition, those same records contained sparse information regarding Dr. Ortiz's medical decision making, and failed to include a treatment plan. In sum, Dr. Ortiz's medical documentation failed to include the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

7. Section 3.1.2.1 of the Rules Governing the Maine Medical Use of Marijuana Program requires that a "physician must follow 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 21, *Use of Controlled Substances for Treatment of Pain* when certifying a patient for the medical use of marijuana.

8. On July 8, 2014, the Board reviewed the Complaint No. CR13-67, Dr. Ortiz's response, and the investigative information, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Ortiz this Consent Agreement to resolve Complaint No. CR13-67 without further proceedings.

9. This Consent Agreement has been negotiated by Dr. Ortiz and legal counsel for the Board in order to resolve Complaint No. CR13-67 without further proceedings, including an adjudicatory hearing. Absent Dr. Ortiz's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before September 8, 2014, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Ortiz waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

11. Dr. Ortiz admits that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct pursuant to 32 M.R.S. § 3282-A(2)(F) based upon: (a) The manner and location of the medical marijuana clinics on March 20-21, 2013; and (b) Failing to create and maintain adequate medical records for the patient encounters on March 20-21, 2013. Dr. Ortiz admits that such conduct constitutes grounds for discipline of his Maine medical license.

12. As discipline for the conduct described in paragraphs 1-11 above, Dr. Ortiz agrees to:

- a. Accept a REPRIMAND. As a licensed physician and medical professional Dr. Ortiz is responsible for being aware of and following the Board's rules with regard to appropriate medical record documentation. In addition, by conducting these clinics at local hotels, through all hours, and with too numerous

a patient load, Dr. Ortiz created a negative impression of his activities that reflects badly upon the medical profession. Dr. Ortiz shall not again engage in this type of conduct.

b. Pay a MONETARY FINE of Two Thousand Dollars and Zero Cents (\$2,000.00). Dr. Ortiz shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Reimburse the Board One Thousand Four Hundred Eleven Dollars and Seventy-Six Cents (\$1,411.76) as the actual costs of the investigation of this matter. Dr. Ortiz shall ensure that he makes full payment of reimbursement to the Board within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" or any other method of payment acceptable to the Board and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. Following the execution of this Consent Agreement and the Board's receipt of Dr. Ortiz's payments of the fine and actual costs, the Board agrees to renew Dr. Ortiz's Maine medical license, which has been pended during the investigation of this complaint.

14. Dr. Ortiz waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Ortiz agrees that this Consent Agreement is a final, non-appealable action resolving the Complaint No. CR13-67. This

Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

15. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Ortiz or any other matter relating to this Consent Agreement.

16. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

17. This Consent Agreement constitutes adverse licensing and disciplinary action that is reportable to the National Practitioner Data Bank ("NPDB") and the Federation of State Medical Boards ("FSMB").

18. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

19. The Board and Dr. Ortiz agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR13-67.

20. Dr. Ortiz has not been represented by an attorney and has participated in the negotiation of this Consent Agreement.

21. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

22. Dr. Ortiz acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this

Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, WILLIAM ORTIZ, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

8/18/14


WILLIAM ORTIZ, M.D.

STATE OF MAINE

ARROSTOCK, County

Personally appeared before me the above-named William Ortiz, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

8-18-2014


NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: _____

PATRICK R. BENNET,
Notary Public, Maine
My Commission Expires
March 4, 2019

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

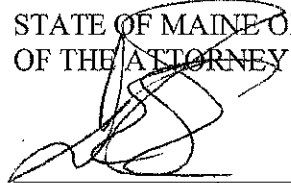
9/9/14


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED:

9/9/14


DENNIS E. SMITH
Assistant Attorney General

Effective Date:

9/9/14